

**PT 05-14**

**Tax Type: Property Tax**

**Issue: Charitable Ownership/Use**

**STATE OF ILLINOIS  
DEPARTMENT OF REVENUE  
OFFICE OF ADMINISTRATIVE HEARINGS  
CHICAGO, ILLINOIS**

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**SOCIETY OF DANUBE SWABIANS  
OF THE USA, INC.,  
APPLICANT**

**No: 03-PT-0100**

**Real Estate Tax Exemption  
For 2002 Tax Year**

**v.**

**P.I.N. 9-18-214-020 and 021**

**Cook County Parcels**

**THE DEPARTMENT OF REVENUE  
OF THE STATE OF ILLINOIS**

**Kenneth J. Galvin  
Administrative Law Judge**

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**RECOMMENDATION FOR DISPOSITION**

**APPEARANCES:** Mr. James E. Dickett, Romanoff & Dickett, Ltd., on behalf of the Society of Danube Swabians of the USA, Inc.; Mr. John Alshuler, Special Assistant Attorney General, on behalf of the Department of Revenue of the State of Illinois.

**SYNOPSIS:** This proceeding raises the issue of whether Cook County Parcels, identified by index numbers 9-18-214-020 and 9-18-214-021 (hereinafter the “subject property”) qualifies for exemption from 2002 real estate taxes under 35 ILCS 200/15-65 of the Property Tax Code, which exempts all property owned by a charity and actually and exclusively used for charitable purposes and 35 ILCS 200/15-125, which exempts parking areas, not leased or used for profit, and owned by a charitable organization.

This controversy arose as follows: The Society of Danube Swabians of the USA, Inc. (hereinafter the “Society” or “applicant”) filed an Application for Non-homestead Property Tax Exemption with the Cook County Board of Review (the “Board”) seeking

exemption from 2002 real estate taxes for the subject property. The Board reviewed the Society's Application and recommended that a full year exemption be granted. The Department of Revenue of the State of Illinois (the "Department") rejected the Board's recommendation in a determination dated October 23, 2003, finding that the subject property was not in exempt ownership and not in exempt use in 2002. The Society filed a timely appeal of the Department's exemption denial. On October 27, 2004, an evidentiary hearing was held with Mr. William Milleker, a member and officer of the Society, testifying. Following a careful review of the testimony and evidence, it is recommended that the Department's exemption denial be affirmed.

**FINDINGS OF FACT:**

1. Dept. Ex. No. 1 establishes the Department's jurisdiction over this matter and its position that the subject property was not in exempt ownership or use during 2002. Tr. pp. 10-11; Dept. Ex. No. 1.
2. Danube Swabians are an ethnic group that originated in southeast Europe in an area between France, Hungary, Yugoslavia and Romania. Danube Swabians spoke many languages but the German language was usually common to all. Tr. pp. 55-56.
3. The Society was incorporated under the Illinois "General Not For Profit Corporation Act" in 1953. The Society's Constitution states that its purpose is the continuation of the cultural uniqueness of the Danube Swabian people through: 1) classes in the German language, culture, history, literature, music and folklore of the Danube Swabian people; 2) children's programs to encourage the preservation of customs and traditions of the Danube Swabians; 3) encouraging the participation of youth in music and folk dancing education;

4) providing food, clothing and other assistance to people in need of help in the community; and 5) maintain a Danube Swabian museum of cultural artifacts and a library of educational and research books on the history of the Danube Swabian people. The Society does not have capital stock or shareholders. Tr. pp. 45, 48-49; App. Ex. Nos. 19 and 20.

4. The Society is exempt from income tax under section 501(c)(4) of the Internal Revenue Code. Donors to and members of the Society do not get a federal tax deduction on their contributions or membership fee. Tr. pp. 15-17, 63; App. Ex. No. 3; Dept. Ex. No. 2.

5. The Society has a membership of approximately 750 people who pay \$20/year and receive a monthly newsletter called “Nachrichten,” listing the Society’s programs. Nachrichten is written mostly in German. The Society distributes the newsletter free to nonmember universities and ethnic organizations. Tr. pp. 45-47, 61-62, 69; App. Ex. No. 18.

6. The Society’s Constitution states that it has three classes of members: “General members” who may be of Danube Swabian or German descent; “Founding members” who further the goals of the Society through an extraordinary contribution and; “Honorary members” who further the goals of the Society or who publicly successfully represent the interests of the Danube Swabians. The Constitution states that the admission of general members requires the completion of a membership application submitted to the Managing Committee. “The Managing Committee has the right to decline acceptance without specifying reasons.” Tr. pp. 45-47; App. Ex. No. 20.

The Society

7.           acquired P.I.N. 9-18-214-020 (building and land) by warranty deed recorded August 14, 1992 and P.I.N. 9-18-214-021 (parking lot) by warranty deed recorded June 10, 1996. Tr. pp. 13-15; App. Ex. Nos. 1, 2 and 5.
8.           The building on the subject property includes a youth room, classrooms, a kindergarten room, library, museum, common areas, a small hall used as a lunchroom and a large hall used for a senior program. Tr. pp. 19-20; App. Ex. No. 6.
9.           The library on the subject property is open to the public Friday nights, some Wednesday nights and Saturdays from 10:00 a.m. to 1:00 p.m. There is no fee for admittance. The library contains books, video materials and maps detailing the 300 years of existence, immigration and history of the ethnic groups in Yugoslavia, Hungary and Rumania. Tr. pp. 20-23, 63-64; App. Ex. No. 7.
10.          The museum on the subject property is open to the public Friday nights, some Wednesday nights and Saturdays from 10:00 a.m. to 1:00 p.m. There is no fee for admittance. The museum has artifacts that cover a period from the 17<sup>th</sup> to the 19<sup>th</sup> century, household items of the period, trade tools, implements that farmers used, formal attire from different regions of southeast Europe and handicraft items. Tr. pp. 23-23, 64-65; App. Ex. No. 8.
11.          German language classes, from kindergarten through eighth grade, are taught in the classrooms on the subject property on Saturdays for 3 hours. The classes which include German history, customs, literature and music, are open to the public. In tax year 2002, there were 109 students and 8 teachers. Tuition for the September through May school year is \$165. Requests for tuition waiver

due to financial hardship can be directed to the supervisor of the school. In 2002, there were no waiver requests. Tr. pp. 23-28, 65-67; App. Ex. Nos. 9, 10, 11, 12 and 13.

12. The Society operates a youth program for 37 high school students. The program is open to the public. Participants and their parents do not have to be members of the Society to join and there is no fee. Meetings, supervised by 3 volunteers including a dance and singing instructor, are held on the subject property every Friday. The youth group meets to socialize, learn folk dancing and singing and to get involved in the community. The youth group performs for free in the Chicago area and also helps out at the Self-Help Closet and Pantry of Des Plaines. Tr. pp. 34-39, 57-60; App. Ex. Nos. 14, 15 and 16.

13. The Society operates a senior program for approximately 180 seniors meeting 3 Wednesdays each month from 9:00 a.m. to 3:00 p.m. The majority of seniors participating are members of the Society. Seniors play cards, listen to lectures on insurance and long-term care, use the library or museum or view a movie. Fifteen volunteers cook and serve a luncheon at noon. The luncheon costs \$5 including desert and coffee. Tr. pp. 40-44, 52-53; App. Ex. No. 17.

14. The Society's December 31, 2002 federal "Form 990, Return of Organization Exempt from Income Tax" shows "Total Revenue" of \$393,149 (including \$225,687 from "Direct Public Support" which involves donations and fundraising, \$51,930 from an "Ethnic Fundraiser," and \$75,063 from a "Building Fundraiser) total expenses of \$204,840 yielding an "excess" for the year of \$188,309. The "excess" was used for expansion of the classrooms, the

youth group facility and the hall for senior activities. German language teachers are the only paid employees. Tr. pp. 44-45, 48; App. Ex. No. 4.

### **CONCLUSIONS OF LAW:**

An examination of the record establishes that the Society has not demonstrated, by the presentation of testimony or through exhibits or argument, evidence sufficient to warrant exempting the subject property from 2002 real estate taxes. Accordingly, under the reasoning given below, the determination by the Department that the subject property does not satisfy the requirements for exemption set forth in 35 ILCS 200/15-65 should be affirmed. In support thereof, I make the following conclusions:

Article IX, Section 6 of the Illinois Constitution of 1970 limits the General Assembly's power to exempt property from taxation as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

The General Assembly may not broaden or enlarge the tax exemptions permitted by the constitution or grant exemptions other than those authorized by the constitution. Board of Certified Safety Professionals v. Johnson, 112 Ill. 2d 542 (1986). Furthermore, Article IX, Section 6 does not, in and of itself, grant any exemptions. Rather, it merely authorizes the General Assembly to confer tax exemptions within the limitations imposed by the constitution. Locust Grove Cemetery v. Rose, 16 Ill. 2d 132 (1959). Thus, the General Assembly is not constitutionally required to exempt any property

from taxation and may place restrictions or limitations on those exemptions it chooses to grant. Village of Oak Park v. Rosewell, 115 Ill. App. 3d 497 (1<sup>st</sup> Dist. 1983).

Pursuant to its Constitutional mandate, the General Assembly enacted the Property Tax Code (35 ILCS 200/1-3 *et seq.*). The provisions of the Code that govern the disposition of the instant proceeding are found in Section 15-65. In relevant part, the provision states as follows:

All property of the following is exempt when actually and exclusively used for charitable or beneficent purposes, and not leased or otherwise used with a view to profit.

(a) institutions of public charity

35 ILCS 200/15-65

It is well established in Illinois that a statute exempting property from taxation must be strictly construed against exemption, with all facts construed and debatable questions resolved in favor of taxation. Gas Research Institute v. Department of Revenue, 154 Ill. App. 3d 430 (1<sup>st</sup> Dist. 1987). Based on these rules of construction, Illinois courts have placed the burden of proof on the party seeking exemption, and have required such party to prove, by clear and convincing evidence, that it falls within the appropriate statutory exemption. Immanuel Evangelical Lutheran Church of Springfield v. Department of Revenue, 267 Ill. App. 3d 678 (4<sup>th</sup> Dist. 1994).

Here, the relevant statutory exemption pertains to “institutions of public charity.” Illinois courts have consistently refused to grant relief under section 15-65 of the Property Tax Code, absent appropriate evidence that the subject property is owned by an entity that qualifies as an “institution of public charity” and is “exclusively used” for purposes that qualify as “charitable” within the meaning of Illinois law. 35 ILCS 200/15-

65. Methodist Old People's Home v. Korzen, 39 Ill. 2d 149, 156 (1968) (hereinafter "Korzen").

The Society's ownership of the subject property was established by deeds evidencing that the Society acquired title to P.I.N. 9-18-214-020 (building and land) on August 14, 1992 and P.I.N. 9-18-214-021 (parking lot) on June 10, 1996. App. Ex. Nos. 1 and 2. Thus, the question becomes whether the Society qualifies as an "institution of public charity" under the terms of Korzen. In Korzen, the Illinois Supreme Court outlined the following "distinctive characteristics" of a charitable institution: (1) the benefits derived are for an indefinite number of persons [for their general welfare or in some way reducing the burdens on government]; (2) the organization has no capital, capital stock or shareholders; (3) funds are derived mainly from private and public charity, and the funds are held in trust for the objects and purposes expressed in the charter; (4) the charity is dispensed to all who need and apply for it, and does not provide gain or profit in a private sense to any person connected with it; (5) the organization does not appear to place obstacles of any character in the way of those who need and would avail themselves of the charitable benefits it dispenses. Korzen *supra* at 157.

The above factors are guidelines for assessing whether an institution is a charity, but are not definitive requirements. DuPage County Board of Review v. Joint Comm's on Accreditation of Healthcare Organizations, 274 Ill. App. 3d 461 (2d Dist. 1995). Thus, a rigid formula is not to be applied to all fact situations but instead "courts consider and balance the guidelines by examining the facts of each case and focusing on whether and how the institution serves the public interest and lessens the State's burden." *Id.* at 469.

**Lack of Exempt Ownership:** In determining whether an organization is an institution of public charity, it is proper to consider provisions of its charter. Rotary



International v. Paschen, 14 Ill. 2d 387 (1957). The Society's Constitution states that its purpose is the continuation of the cultural uniqueness of the Danube Swabian people through: 1) classes in the German language, culture, history, literature, music and folklore of the Danube Swabian people; 2) children's programs to encourage the preservation of customs and traditions of the Danube Swabians; 3) encouraging the participation of youth in music and folk dancing education; 4) providing food, clothing and other assistance to people in need of help in the community; and 5) maintenance of a Danube Swabian museum of cultural artifacts and a library of educational and research books on the history of the Danube Swabian people. The Society's Articles of Incorporation state that its purpose is to engage in social, civic, cultural and educational and philanthropic activities, to promote the general welfare and happiness of its members, their dependents and friends, and to stimulate a love for the United States, its constitution and traditions and for the ideals of liberty and independence. Tr. pp. 45, 48-49; App. Ex. Nos. 19 and 20.

The Society's purposes, as stated in its Constitution and Articles of Incorporation, do not constitute charitable purposes with the meaning of Section 15-65 of the Property Tax Code. There is nothing inherently charitable in the Society's goal of continuing the "cultural uniqueness" of the Danube Swabian people or of promoting the "general welfare and happiness of its members." The Society's Constitution and Articles indicate that the Society exists mainly for fraternal and social purposes and to serve a limited class of persons, namely its Danube Swabian members. Although the Society's Constitution states that one of its purposes is to "provide food, clothing and other assistance to people in need in the community," this provision is obviously secondary to the Society's main

purpose of preserving the culture, history, literature, music and folklore of the Danube Swabian people.

As the Society's Constitution and the testimony at the evidentiary hearing indicate, the benefits derived from the Society are not for an unlimited number of persons, one of the guidelines of Korzen. The benefits derived from the Society are for Danube Swabians. There was no testimony at the hearing that the activities offered by the Society lessen what would otherwise be a government function or "burden." There was no testimony or evidence that the government sponsored any type of program that would encourage interest in the culture of the Danube Swabians. If the Society did not exist to "continue the cultural uniqueness" of the Danube Swabian people, public interest would not dictate that the State meet the demand for this activity.

There was testimony at the evidentiary hearing that some of the Society's German students have passed out of high school German classes. Tr. p. 32. It appears that the argument here is that the Society reduces a burden on government because foreign language classes are taught in high school. The Illinois School Code requires "one year chosen from" either music, art, foreign language or vocational education. 105 ILCS 5/27-22. This provision does not require either that a student study a foreign language or the German language. I am unable to conclude that any burden on government is reduced if some of the Society's German students pass out of high school German classes.

The fact that the Society is a membership organization is further evidence that it exists to serve a limited class of persons. The Society has approximately 750 members who each pay \$20/year. Tr. pp. 45-46. The Society's Constitution states that it has three classes of members: "General members" who may be of Danube Swabian or German descent; "Founding members" who further the goals of the Society through an

extraordinary contribution and; “Honorary members” who further the goals of the Society or who publicly successfully represent the interests of the Danube Swabians. The Constitution states that the admission of general members requires the completion of a membership application submitted to the Managing Committee. “The Managing Committee has the right to decline acceptance without specifying reasons.” Tr. pp. 45-47; App. Ex. No. 20.

It is unclear from the membership provisions and it was not explained at the evidentiary hearing how a person who is not of Danube Swabian or German descent could become a member of the Society. Apparently, a person in this situation would be required to make an “extraordinary contribution” and become a “Founding member.” There was testimony at the evidentiary hearing that no one has ever been refused membership and no one has ever been kicked out of the Society. Tr. p. 50. This may be so but it is at odds with the provision in the Constitution, not addressed at the evidentiary hearing, that provides that the Managing Committee has the right to decline acceptance of any member “without specifying reasons.” App. Ex. No. 20. I am unable to conclude that the Society dispenses charity to all who need and apply for it, another characteristic of a charitable institution, when a person who may want to join the Society can be denied membership by the Management Committee “without specifying reasons.” The Society’s members receive a monthly newsletter called “Nachrichten,” listing the Society’s programs. Tr. p. 46; Dept. Ex. No. 3. The fact that “Nachrichten” is written mostly in German is further evidence that the Society exists to serve only a limited class of persons.

Because the Society’s membership is so limited and because its stated purpose is to benefit this limited membership, I must conclude that the Society is not a charitable organization, but rather a fraternal and/or social organization. Fraternal and social

organizations do not qualify for exempt status because they operate primarily for the benefit of a limited class of persons who maintain membership therein. In Rogers Park Post No. 108 v. Brenza, 8 Ill. 2d 286 (1956), the Court found that the primary purpose of the organization was “to foster love of country, respect for our civil institutions and to benefit and afford comradeship to its members.” *Id.* at 291. It must be noted that these purposes are strikingly similar to the Society’s purposes, as stated in its Articles of Incorporation. App. Ex. No. 19. According to the Court in Rogers Park, the Post’s purposes were “patriotic, laudable and public spirited.” “Nonetheless, they do not constitute charitable purposes, however desirable or however beneficial.” The Court found that the dominant use of the subject property was as a “private club rather than a headquarters for the dispensation of charitable relief.” *Id.* at 290-291.

Similarly, in Albion Ruritan Club v. Dep’t. of Revenue, 209 Ill. App. 3d 914 (5<sup>th</sup> Dist. 1991), the court found that a community service organization’s property did not warrant a tax exemption. Albion’s constitution listed its objectives, *inter alia*, as “[T]o promote fellowship and good will among its members and the citizens in the community, and to inspire each other to higher efforts.” In denying a property tax exemption to Albion, the court noted that “it must be shown that the benefits accrue to mankind directly; it is not sufficient that incidental benefits accrue to the public as a result of the property’s use.” *Id.* at 918.

In the instant case, the main purpose of the Society is to continue the cultural uniqueness of the Danube Swabian people. If there are any benefits to mankind or the public from the Society’s activities, the benefits are incidental and secondary to the Society’s main purpose. Learning about Danube Swabian culture may enhance the life of the Society’s members but it is not a charitable activity. If the primary benefit of an

organization flows to its members and not the public, then an exemption will be denied. Board of Certified Safety Professionals of the Americas v. Johnson, 112 Ill. 2d 542, 547 (1986); Chicago Bar Association v. Department of Revenue, 177 Ill. App. 3d 896 (2d Dist. 1988).

**Lack of Exempt Use:** The charitable exemption statute requires that the subject property be “exclusively” used for charitable purposes. 35 ILCS 200/15-65. An “exclusively” charitable purpose need not be interpreted literally as the entity’s sole purpose; it should be interpreted to mean the primary purpose, but not a merely incidental or secondary purpose or effect. Gas Research Institute v. Department of Revenue, 154 Ill. App. 3d 430, 436 (1<sup>st</sup> Dist. 1987.). Based on the testimony and evidence admitted at the hearing, I conclude that the Society’s primary use of the subject property is as a place to cultivate an appreciation for Danube Swabian traditions and to promote the general welfare and happiness of its members. Any charitable effects which stem from this primary use are incidental and secondary to the Society’s purpose and do not lead to the conclusion that the subject property is used exclusively for charitable purposes.

The building on the subject property includes a youth room, classrooms, a kindergarten room, library, museum, common areas, a small hall used as a lunchroom and a large hall used for a senior program. Tr. pp. 19-20; App. Ex. No. 6. The library on the subject property is open to the public and there is no fee for admittance. The library contains books, video materials and maps detailing the 300 years of existence, immigration and history of the ethnic groups in Yugoslavia, Hungary and Rumania. Tr. pp. 20-23, 63-64; App. Ex. No. 7. The museum on the subject property is also open to the public and there is no fee for admittance. The museum has artifacts that cover a period from the 17<sup>th</sup> to the 19<sup>th</sup> century, household items of the period, trade tools,

implements that farmers used, formal attire from different regions of southeast Europe and handicraft items. Tr. pp. 23-23, 64-65; App. Ex. No. 8.

There was no testimony at the evidentiary hearing as to how many nonmembers visited the library or museum during tax year 2002. There was testimony at the hearing that the “public at large” was made aware of the services offered by the Society through articles in the local papers in the Des Plaines area and through newspapers at large, through the internet and through the free services of the Des Plaines community cable channel. Tr. p. 50. There was no specific testimony however that the Society’s museum or library or that the free admission policy for the museum or library were advertised to the public. Photographs of the museum and library are posted on the Society’s website (<http://www.donauchicago.com/>) but there is no mention that these facilities are open to the public or that admission is free. I am unable to conclude that the Society does not place obstacles in the way of those who would avail themselves of its “charitable benefits” when there is no evidence that these benefits are advertised to the public.

German language classes, from kindergarten through eighth grade, are taught in the classrooms on the subject property on Saturdays for 3 hours. The classes which include German history, customs, literature and music, are open to the public. In tax year 2002, there were 109 students and 8 teachers. Tuition for the September through May school year is \$165. Requests for tuition waiver due to financial hardship can be directed to the supervisor of the school. In 2002, there were no waiver requests, although there was testimony that tuition had been waived in years subsequent to the tax year at issue. Tr. pp. 23-28, 65-67; App. Ex. Nos. 9, 10, 11, 12 and 13. The Society’s Constitution does not contain any statement or policy about tuition waivers. Although the Society’s website (<http://www.donauchicago.com/>) advertises the “Weekend School,” there was no

information offered about tuition waivers. There was no evidence or testimony at the hearing as to how someone wanting or needing to take a German class but unable to pay for it would know that tuition waivers were available. Without some evidence of a policy statement or advertising of the availability of tuition waivers, I must conclude that the Society places obstacles in the way of those who may need this “charitable” service.

The Society also operates a youth program for 37 high school students. The program is open to the public. Participants and their parents do not have to be members of the Society to join and there is no fee. Meetings, supervised by 3 volunteers including a dance and singing instructor, are held on the subject property every Friday. The youth group meets to socialize, learn folk dancing and singing and to get involved in the community. The youth group performs for free in the Chicago area and also helps out at the Self-Help Closet and Pantry of Des Plaines. Tr. pp. 34-39, 57-60; App. Ex. Nos. 14, 15 and 16.

The Society also operates a senior program for approximately 180 seniors meeting three Wednesdays each month from 9:00 a.m. to 3:00 p.m. The majority of seniors participating are members of the Society. Seniors play cards, listen to lectures on insurance and long-term care, use the library or museum or view a movie. Fifteen volunteers cook and serve a luncheon at noon. The luncheon costs the seniors \$5 including desert and coffee. Tr. pp. 40-44, 52-53; App. Ex. No. 17. There was testimony at the evidentiary hearing that the “true cost” of the lunch to the Society is “around seven and a half to eight dollars.” Tr. p. 52.

An inquiry into whether the Society uses the subject property for exclusively charitable purposes within the meaning of Section 15-65 of the Property Tax Code depends in part on the application of the following definition:

Charity is a gift to be applied consistently with existing laws, for the benefit of an indefinite number of persons, persuading them to an educational or religious conviction, for their general welfare – or in some way reducing the burdens of government.

Crerar v. Williams, 145 Ill. 625 (1893). The uses of the subject property described above do not benefit an indefinite number of persons. The library and museum on the subject property appear to be of interest to Danube Swabians only. My research indicates no case where the teaching of a foreign language and culture was considered charitable. Joining the youth group in order to learn traditional folk singing and dancing and participating in the senior meetings where the majority of the attendees are members of the Society is of benefit to the participating member only. These uses of the subject property do not benefit the public at large. The Society is not using the subject property in order to persuade a person to an “educational or religious conviction.” Rather, the Society’s use of the subject property reinforces an already existing interest in the history and culture of Danube Swabians. The Society’s membership participates in the activities not for any charitable purpose but because they want to learn more about their culture.

In the course of teaching its members about their culture, some charity is dispensed. There was testimony that in tax year 2003, not at issue in this case, there were three tuition waivers for the teaching of German. Tr. p. 26. The youth group performs its folk dancing and singing for free in the Chicago area and also helps out at the Self-Help Closet and Pantry of Des Plaines. Tr. pp. 57-59. The seniors attending the Wednesday luncheons pay \$5 for lunch. There was testimony that this lunch costs the Society between \$7.50 and \$8.00. Tr. p. 52. These “charitable” activities represent an incidental use of the subject property and an exception to the property’s dominant use as a place for members to meet in order to foster an appreciation of the membership’s Danube Swabian



heritage. Incidental acts of beneficence are legally insufficient to establish that the applicant is “exclusively” or primarily a charitable organization. Rogers Park Post No. 108 v. Brenza, 8 Ill.2d 286 (1956). The Society has failed to prove clearly and convincingly that the subject property is primarily used for charitable purposes.

The Foundation’s December 31, 2002, federal “Form 990, Return of Organization Exempt from Income Tax” for tax year 2002 shows “Total Revenue” of \$393,149, including \$225,687 from “Direct Public Support” which involves donations and fundraising, \$18,942 in membership dues, \$21,527 in tuition for German classes, \$51,930 from an “Ethnic Fundraiser,” and \$75,063 from a “Building Fundraiser.” Taxpayer’s Ex. No. 4; Dept. Ex. No. 2. Testimony at the evidentiary hearing was inconclusive as to how much of the “Direct Public Support” comes from members of the Society. Tr. pp. 70-71. I am unable to conclude that the Society derives its funds mainly from public and private charity. The funds generated from members’ contributions and dues, tuition payments for German classes, and the ethnic and building fundraisers may be used for the purposes expressed in the Society’s Constitution, but these purposes are not charitable. In effect, the members’ contributions, dues, tuition payments and the fundraising generate income to pay for the Society’s cultural, social and fraternal activities which are of interest to and benefit the members. Other than the testimony with regard to the luncheon served to seniors at below cost, there was no evidence in the record of any expenditure in tax year 2002 by the Society for specifically charitable purposes.

At the evidentiary hearing, there was testimony that the Society did not have capital stock or shareholders. Tr. p. 45. The Society has a president two vice-presidents, and a secretary. No salaries are paid to these officers. App. Ex. No. 4. The only paid

employees are the German teachers. Tr. p. 48. Although the Society has some characteristics of a charitable organization, it has neither a purpose nor a use which is primarily charitable.

For the above stated reasons, it is recommended that the Department's determination which denied the exemption from 2002 real estate taxes on the grounds that the subject property was not in exempt ownership and not in exempt use should be affirmed, and Cook County Parcels, Index Numbers 9-18-214-020 and 9-18-214-021 should not be exempt from 2002 real estate taxes.

Kenneth J. Galvin

January 31, 2005